IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION NO.523 OF 2006

Messers Business India — Petitioner
vs.
Deputy Commissioner of Income Tax 12(1) & ors. — Respondents

Mr.J.D.Mistry with Mr.R.Murlidharan i/b.M/s.Thakordas & Madgavkar for the petitioner.

Mr.D.S.Chopra for the respondents.

CORAM : R. M. LODHA &
J.P. DEVADHAR,JJ.

DATED : 8th March 2006

P.C.

Not on board.

2. By consent of the parties, the writ petition was called out for admission.

3. In response to the notice under Section 148 of the Income Tax Act, 1961 dated 23.03.2005, the petitioner-assessee has filed objections and the return of income under protest.

4. In GKN Driveshafts (India) Ltd. v. Income-Tax Officer & ors., **259 ITR 19,** the Supreme Court held that where objections are filed by the assessee in response to the notice under section 148, the assessing officer shall dispose of the objections by passing speaking order before proceeding with the assessment.

5. We, accordingly, dispose of the writ petition by the following order:

(i) The assessing officer shall dispose of the objections filed by the petitioner by speaking order before proceeding with the assessment.

(ii) The petitioner shall be at liberty to challenge the order that may be passed by the assessing officer on the objections filed by the petitioner to the notice under section 148 of the Income Tax Act, 1961.

(iii) For a period of four weeks from the date of communication of such order disposing of the petitioner's objections to the notice under Section 148 of the Income Tax Act, 1961, the assessing officer shall not pass final order of assessment.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)